

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MYOHO MYSTIC WINSTON, JR.,

Plaintiff,

vs.

RUSSELL K. PAUL,

Defendant.

No. 1:22-cv-00343-JLT-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. 8)

The assigned magistrate judge entered findings and recommendations that this action be dismissed for failure to state a claim and without further leave to amend. (Doc. 8.) Plaintiff filed objections to the findings and recommendations. (Doc. 9.)

According to 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, including Plaintiff's objections, the Court concludes that the magistrate judge's findings and recommendations are supported by the record and by proper analysis.

Plaintiff objects to the findings and recommendations, arguing that he only complains about the past denial of treatment, not an ongoing lack of treatment as the findings and recommendations suggests. (Doc. 9 at 2.) However, the Court only rejected the allegations *to the extent* that Plaintiff complained about an ongoing lack of treatment and separately addressed his allegations to the extent that he complained about a past denial of treatment. (Doc. 8 at 6-7.)

Moreover, the Court reasonably construed the allegations as complaining about the lack of ongoing treatment since Plaintiff seeks a court order requiring Defendant to provide him surgery. (*Id.* at 7.)

Plaintiff's remaining objections generally assert that Plaintiff's allegations give rise to a deliberate indifference claim. (Doc. 9.) However, the objections provide no basis for rejecting the magistrate judge's findings and recommendations, which correctly explain why Plaintiff's claims cannot proceed. Accordingly, the Court **ORDERS**:

1. The findings and recommendations issued on April 26, 2022 (Doc. 8), are **ADOPTED IN FULL**.
2. Plaintiff's first amended complaint (Doc. 7) is **DISMISSED** for failure to state a cognizable claim upon which relief may be granted, without leave to amend.
3. The Clerk of Court is directed to close this case.

IT IS SO ORDERED.

Dated: **June 28, 2022**


UNITED STATES DISTRICT JUDGE